



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/825,119

04/16/2004

Keisuke Matsumoto

403043

7964

23548 7590 03/12/2007

LEYDIG VOIT & MAYER, LTD

700 THIRTEENTH ST. NW

SUITE 300

WASHINGTON, DC 20005-3960

EXAMINER

STAHL, MICHAEL J

ART UNIT

PAPER NUMBER

2874

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/825,119

Applicant(s)

MATSUMOTO, KEISUKE

Examiner

Mike Stahl

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 21, 2006 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Leuthold et al. (US 5933554).

Claim 1: Leuthold discloses an optical functional device (see fig. 21) comprising: a first port **401b**, a second port **409b**, a third port **402**, a fourth port **408**, a first splitter **421** branching the first port to a first arm (including the set of waveguides **403**, **405b**, **407**) and a second arm (including the set of waveguides **404**, **405c**, **406**), a second splitter **422** branching the second port to the first and second arms, a third splitter **425** branching the first arm to the third port **402**, a fourth splitter **426** branching the first arm to the fourth port **408**, a first semiconductor optical amplifier (SOA) **427b** disposed between the third and fourth splitters on the first arm, a second SOA **427c** disposed between the first and second splitters on the second arm, and a phase control

Art Unit: 2874

element **429b** disposed between the second and fourth splitters **422** and **426** (respectively), wherein the fourth splitter **426** is disposed between the first SOA **427b** and the phase control element **429b**. It is noted that the nonlinear regions **427b/c** may be provided in the form of a semiconductor optical amplifier as discussed e.g. at col. 1 lns. 48-64 and col. 17 lns. 41-43. Fig. 5a more clearly shows that elements **425/426** act as a splitter/combiner for a control signal "A".

Claim 3: In addition to the parts identified above with respect to claim 1 (wherein **429b** is the *first* phase control element in terms of claim 3), the fig. 21 Leuthold device also includes a second phase control element **429a** disposed between the second SOA **427c** and the second splitter **422** on the second arm.

Claims 2 and 4: The fig. 21 structure can function as a wavelength converter since it uses a control signal "A" to determine at which output the signal "B" appears. See e.g. col. 20 lns. 9-15.

Response to Arguments

The remarks accompanying the December 21, 2006 amendment are persuasive to the extent that the fig. 10 embodiment in Leuthold no longer satisfies the requirements of claims 1 and 3 as amended. However, the fig. 21 embodiment has been used instead in this action.

Conclusion


Inquiries about this letter may be directed to examiner Stahl at the number below. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at 571-272-1626. Official correspondence which is eligible for submission by facsimile and which pertains to this application may be faxed

Art Unit: 2874

to 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions about the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Stahl MSS
2874
571-272-2360

March 2, 2007



Rodney Bovernick
Supervisory Patent Examiner
Technology Center 2800